

1           IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF MONTANA  
3                           BUTTE DIVISION  
4

5  
6       KEVIN BRIGGS,                                 ) CV18-0010-BU-BMM-JCL  
7                                 Plaintiff,         )  
8                 v.   )  
9       GALLATIN COUNTY and JOHN DOES)  
0       1-8, as individuals and in         )  
1       their official capacity as         )  
2       detention officers,                         )  
3                                 Defendants.         )  
4

5           DEPOSITION OF BOWMAN SMELKO, Psy.D.  
6

7           BE IT REMEMBERED, that the deposition upon  
8       oral examination of BOWMAN SMELKO, Psy.D.,  
9       appearing at the instance of Defendants, was heard  
0       at the Law Office of McKeon and Doud Law, 808  
1       Great Northern Boulevard,, Helena, Montana, on  
2       the 23rd day of July, 2019, beginning at the hour  
3       of 8:30 a.m., before Laurie Crutcher, Registered  
4       Professional Reporter, Notary Public.  
5

         \* \* \* \* \*

1	I N D E X	1	<b>A. A dozen.</b>
2		2	<b>Q.</b> Would that be solely as an expert
3	WITNESS PAGE	3	witness, or perhaps in another capacity, or a
4	BOWMAN SMELKO, Psy.D.	4	combination?
5	Examination by Mr. Cal Stacey . . 4	5	<b>A. No, always as an expert.</b>
6	Examination by Mr. Biddulph . . . 70	6	<b>Q.</b> What type of cases do you usually get
7		7	hired on to act as an expert witness?
8		8	<b>A. It's a plethora.</b>
9		9	<b>Q.</b> Why don't you just run through general
10	E X H I B I T S	10	topics, please.
11		11	<b>A. So I do both civil and criminal forensic</b>
12	Exhibit No. Exhibit Description Page	12	<b>psychology. So criminally I do a lot of sex</b>
13	29 Dr. Smelko's Report 4	13	<b>offender matters; mental state at the time of the</b>
14		14	<b>offense; fitness to proceed, or in Federal Courts,</b>
15		15	<b>competency to proceed.</b>
16		16	I've served as an expert -- I do a lot
17		17	of educational testimony on stuff like battered
18		18	wife syndrome, child sexual abuse syndrome, how
19		19	there is not a lot of research behind them, and
20		20	misapplication of data and research around those.
21		21	I've done -- I'm trying to think. My
22		22	mind is going blank -- eye witness identification
23		23	education; as well as I've testified on different
24		24	matters related to line-ups and police
25		25	interrogation.
	3		5
1	WHEREUPON, the following proceedings were	1	I know I'm leaving something out. My
2	had and testimony taken, to-wit:	2	vitaie really outlines a lot more of this.
3	*****	3	I've done death penalty clemency
4	(Whereupon, Deposition Exhibit No. 29	4	hearing; I've done numerous violence risk
5	Dr. Smelko's Report	5	assessments for different matters; stalking
6	was marked for identification)	6	assessments.
7		7	I've served in the capacity civilly in
8	BOWMAN SMELKO, Psy.D.,	8	custody and parent termination; officer
9	Having been first duly sworn, was examined and	9	evaluation, so firearm capability evaluations;
10	testified as follows:	10	personal injury obviously -- what we're working
11		11	with here.
12	EXAMINATION	12	I've also served in the capacity of
13	BY MR. CALVIN STACEY:	13	looking at systems such as best practices with
14	<b>Q.</b> Sir, could you state your full name for	14	inside various systems psychologically, treatment
15	the record, please.	15	centers, as far as that goes. I know I'm
16	<b>A. Dr. Bowman Smelko, S-M-E-L-K-O.</b>	16	obviously leaving something out because it's all
17	<b>Q.</b> Doctor, what is your profession?	17	off the top of my head.
18	<b>A. I'm a licensed psychologist in the</b>	18	But in Montana when you're board
19	<b>states of Montana, Colorado, and Alaska, and I'm</b>	19	certified in forensic psychology, and you're the
20	<b>also board certified by the American Board of</b>	20	only person, you end up with a lot of depth and
21	<b>Forensic Psychology.</b>	21	breadth of different issues to work on, so --
22	<b>Q.</b> Have you ever had your deposition taken	22	<b>Q.</b> Fair enough. Splitting percentage-wise
23	before?	23	between criminal and civil cases, do you have any
24	<b>A. I have.</b>	24	rough estimate?
25	<b>Q.</b> Roughly how many times would you say?	25	<b>A. Well, it really gets skewed because it</b>
	4		6



1 ebbs and flows for years. The Department of  
2 Family Service would hire me on those parental  
3 termination cases, and that was a fairly large  
4 percentage; and then when their budget crisis  
5 happened, they stopped being able to hire  
6 psychologists as much, and so that decreased and  
7 other areas went up.

8 I would say it's probably 65, 70 percent  
9 criminal, the other 30 percent civil, is my best  
10 guess.

11 **Q.** Of the civil, when you mentioned  
12 personal injury such as this case, any breakdown  
13 there of the civil, that would be personal injury  
14 versus some of the other matters?

15 **A.** So if I took that 30 percent and chunked  
16 it up, I would say it's probably about 20 percent.

17 **Q.** What type of personal injury cases have  
18 you worked on prior to this one?

19 **A.** Primarily sexual abuse cases. That's  
20 the large plethora of them, when somebody sexually  
21 abuses somebody, and they want to know what the  
22 aftermath of that is.

23 **Q.** So would you be hired typically by the  
24 victim, the Counsel for the victim suing someone,  
25 on a sexual abuse?

7

1 **A.** I have been primarily, yes.

2 **Q.** What is your education, Doctor?

3 **A.** Well, I graduated here from Carroll  
4 College with my undergrad. I went on to get my  
5 masters and doctorate from Springfield, Missouri,  
6 Forest Institute of Professional Psychology.

7 I then received my predoctoral training  
8 at the Children's Center in Salt Lake City, Utah,  
9 followed by post-doctoral residency hours at the  
10 University of Utah Neuropsychiatric Institute.  
11 And then the Colorado Boys Ranch in LaJunta.

12 I was licensed then in 2004 in Colorado,  
13 and was hired by the Colorado Mental Health  
14 Institute in Pueblo as a staff psychologist. And  
15 primarily I was placed on the sex offender  
16 division ward for supervision, treatment,  
17 evaluation of sexual offenders who were also found  
18 not guilty by reason of mental illness, and/or who  
19 were in limbo in a competency proceeding; kind of  
20 how do we manage the risk management piece there.

21 At the same time I started a private  
22 practice in Pueblo, and did a broader forensic  
23 practice, and ended up building that up over the  
24 years before we left and selling it; but it was  
25 both civil and criminal, what I've just already

8

1 described.

2 After two years at the State Hospital  
3 kind of on that track, I was promoted to the  
4 clinical director of a joint venture between the  
5 Colorado Mental Health Institute and the Division  
6 of Youth Corrections, and built up and from the  
7 ground up really programmatically, and actually  
8 physically in some respects, sold this to the  
9 Youth Service Center, which was for the twenty  
10 most violent and/or sexually aggressive mentally  
11 ill youth in the state of Colorado.

12 After two years there I was promoted to  
13 all of Colorado's sex offender divisions, but at  
14 the same time, was assigned to do competency  
15 evaluations and assisting mental state at the time  
16 of the offense evaluations.

17 I'm trying to remember the year. 2010  
18 we moved back to Montana, which was solely a  
19 family decision, because Pueblo -- I don't know if  
20 you've ever been down there, but it can be rough.  
21 It has a lot of gang activity. And so we had a  
22 five year old, and we had another one on the way,  
23 and we said, "Well, this probably isn't the best  
24 place to raise kids."

25 So this is where I'm from. I went to

9

1 Capital High, and Carroll, and we came back here  
2 for family.

3 I started at Intermountain Children's  
4 Home, and then was quickly promoted to Clinical  
5 Director of the Outpatient Services, and brought  
6 all those services together initially; and once I  
7 got everything rolling, I was also starting a  
8 private practice, and I resigned there and went  
9 full-time in a private practice.

10 And I teach law, justice, and forensic  
11 psychology at Carroll.

12 In addition, I'm on the faculty for the  
13 American Board of Forensic Psychology, and so I'm  
14 on the Examination Committee. So I review  
15 people's work nationally who want to have that  
16 credential, and twice a year fly down to Atlanta,  
17 and administer oral examinations of professionals.

18 **Q.** Is your private company Capital City  
19 Consultants?

20 **A.** It is, yes.

21 **Q.** Doctor, I'm going to hand you what's  
22 been marked as Exhibit 29, and I know you have  
23 your own copy in front of you.

24 **A.** I can use yours. I don't have any marks  
25 on it.

10



1 **Q.** Whatever works best. I'd like to go  
2 through the report with you.

3 **A.** Sure.

4 **Q.** I think that's the easiest way to take  
5 your deposition. Looking at the report, it's  
6 called a Personal Injury Psychological Evaluation  
7 Report. Is there any magic to those words?

8 **A.** No. It's just the best descriptor that  
9 can try to condense exactly what I'm trying to  
10 achieve in this report, and it drives kind of the  
11 data collection that I have.

12 **Q.** I notice there is a date of April 16,  
13 2019 on the report. Do you recall off hand when  
14 you were first contacted in regard to acting as an  
15 expert witness in this case?

16 **A.** I do not have that knowledge off the top  
17 of my head. I know that I eventually made it down  
18 there a year before in October of 2018 to  
19 Crossroads, but I know there was some obviously  
20 setting up and prior communications to that, so --

21 **Q.** The first paragraph on Page 1 talks  
22 about you going to the Crossroads Correctional  
23 Facility in Shelby on October 24, 2018?

24 **A.** Yes.

25 **Q.** So obviously you would have been

11

1 contacted sometime before then.

2 **A.** Yes, sir.

3 **Q.** And what was the purpose of you going to  
4 meet with Mr. Briggs on October 24, 2018?

5 **A.** It was to collect data relevant to the  
6 referral question of whether or not his time in  
7 correctional facilities had a negative  
8 psychological impact on him.

9 **Q.** I notice in this paragraph it says you  
10 conducted the initial data collection; what does  
11 that mean, initial data collection?

12 **A.** So if we go to the Evaluation  
13 Procedures, just those tests that I administered,  
14 and those interviews that I put in. The reason I  
15 put that in that I conducted it is at times, like  
16 when I was in Pueblo, there was different kinds of  
17 evaluations where I would send a psychological  
18 technician to do that, and I would note that if a  
19 technician collected the data. But in this case I  
20 specifically collected all the data, so that's why  
21 I have that in there.

22 **Q.** And the data would be information from  
23 interviews, for example?

24 **A.** It would be, yes.

25 **Q.** And then it says that, "This evaluation

12

1 and its conclusions are limited to the data

2 sources described below, some of which depend on  
3 the client's self-report." Would the data sources  
4 be the items referred to on Pages 2 and 3 under  
5 Evaluation Procedures?

6 **A.** Yes, primarily two and three,  
7 absolutely, because some of the historical  
8 documentation is also his self-report, too.

9 **Q.** Do you recall when you met Mr. Briggs,  
10 had you reviewed any records related to him, or do  
11 you do that after meeting him?

12 **A.** The time sequencing, if I had them ahead  
13 of time I would have reviewed them. I don't want  
14 to guess.

15 **Q.** In that first paragraph where I left off  
16 it said, "The evaluation and its conclusions are  
17 limited to the data sources described below, some  
18 of which depend on the client's self-report."  
19 What do you mean by "client's self-report"?

20 **A.** It's just language to say that Mr.  
21 Briggs is providing me the information from him.  
22 And so it's always important to note that there  
23 are certain things that I can't corroborate, and  
24 so I try to through the collateral data, but at  
25 times there is things I can't corroborate.

13

1 **Q.** Is that typically referred to like  
2 taking a history from a patient? Would that be --

3 **A.** Well, no, a history would be an example  
4 of that. That wouldn't be what it is. So that  
5 covers everything from his report to me on certain  
6 tests, especially where he's providing the data  
7 directly to me. It could be history, it could be  
8 let's say a medical documentation where he went in  
9 to a doctor and he said, "I'm having these  
10 symptoms." Right?

11 So all I know is what he provided to  
12 that doctor. I don't know exactly if that was  
13 really occurring or not.

14 **Q.** Jumping to Page 2 and 3, the Evaluation  
15 Procedures. It says that when you met with him on  
16 October 24, 2018 you administered a number of  
17 tests?

18 **A.** Uh-huh.

19 **Q.** And for purposes of the deposition --

20 **A.** Yes. Sorry.

21 **Q.** That's fine. Do you know how long it  
22 took for each of these tests to be administered on  
23 October 24th?

24 **A.** I don't. It was the better part of a  
25 morning because he was concerned about making it

14



1 to lunch. So I know it was the better part of  
 2 three plus hours.  
 3 **Q.** That you would have spent there at  
 4 Crossroads?  
 5 **A.** Yes.  
 6 **Q.** Is that the only time that you've been  
 7 there to meet with him?  
 8 **A.** With him, yes.  
 9 **Q.** Have you talked to him on the phone  
 10 either before or after that?  
 11 **A.** I have not.  
 12 **Q.** Looking again at Page 2 under Evaluation  
 13 Procedures, you indicated that you made phone  
 14 calls to individuals which knew Mr. Briggs prior  
 15 to and after incarceration who would be listed  
 16 below.  
 17 Let's go through -- I think that's on  
 18 Page 3. I'm assuming these bullet points -- phone  
 19 interview with Jim Delduca, D-E-L-D-U-C-A -- those  
 20 are the three people you talked to?  
 21 **A.** They are.  
 22 **Q.** I didn't look real closely in the  
 23 materials you brought today, but did you keep  
 24 notes of those interviews?  
 25 **A.** I did. I thought I had provided those.

15

1 I can dig for you real quick.  
 2 **MR. CALVIN STACEY:** Why don't you just  
 3 take a quick look and see if you can find those.  
 4 We'll go off the record for a minute.  
 5 (Off the record briefly)  
 6 **MR. CALVIN STACEY:** Back on.  
 7 **Q.** (BY **MR. CALVIN STACEY**) Doctor, in  
 8 looking at the documents you brought here, it  
 9 doesn't appear we can find any notes of the three  
 10 phone interviews indicated on Page 3 of Exhibit  
 11 29, and they may be in your computer. I guess I'd  
 12 ask when you get an opportunity to take a look,  
 13 and let Dan know if you've got them, send them to  
 14 Dan, and he will send them on to us.  
 15 **A.** Absolutely.  
 16 **Q.** Today do you remember who these people  
 17 are, and perhaps what you learned from them, and  
 18 where you got their names, and things like that?  
 19 **A.** So I can start with where I got their  
 20 names. I got their names directly from Mr.  
 21 Briggs. He provided me individuals that could  
 22 discuss what he looked like before, during, and  
 23 currently when I evaluated him in the correctional  
 24 system.  
 25 As far as who is who in this, I'm going

16

1 to have to go back and look at my notes, but  
 2 that's the context of each of the interviews. And  
 3 really what these interviews help me is look at  
 4 what others' perceptions of him are, which I note  
 5 in my report, so --  
 6 **Q.** How important is a perception of someone  
 7 who knows the individual at issue?  
 8 **A.** It's pretty important because they're  
 9 the only timekeepers that I have, and so the more  
 10 that I can get, the better. Sometimes when I only  
 11 have three, it's limited. I like to get as many  
 12 as I possibly can. But they have to provide me  
 13 with those names and phone numbers. Otherwise I  
 14 would have no idea where to look or where to  
 15 search for that.  
 16 **Q.** So the individual that you ask to  
 17 provide the information, he or she can elect to  
 18 give you one name, or ten names, or select the  
 19 names that he or she thinks may be of assistance  
 20 to you?  
 21 **A.** That is true.  
 22 **Q.** You don't go out and independently  
 23 investigate, and see if there is other people that  
 24 haven't been listed that may be favorable or less  
 25 favorable?

17

1 **A.** If I'm aware of people through records  
 2 or through other sources, then I would have that  
 3 knowledge, and I would ask to speak with those  
 4 people. But outside of that, no, I don't have a  
 5 private investigator's license, and I don't go out  
 6 and search for people myself.  
 7 **Q.** Today do you recall any one of these  
 8 three people as to who they are, what their  
 9 contact was with Mr. Briggs, and perhaps what, if  
 10 any, of them said, other than what may be  
 11 generally reflected in your report?  
 12 **A.** No, other than I would have to go back  
 13 and look at my notes, is what I would say.  
 14 **Q.** All right. Then looking at Page 3, and  
 15 also Page 2, these bullet points, they list the  
 16 items, the documentation that you relied upon and  
 17 reviewed in reaching your opinions?  
 18 **A.** Yes.  
 19 **Q.** And many of these documents appear to me  
 20 to be medical, or counseling, or psychological  
 21 records; they have some Court documents; records  
 22 from correctional facilities like Pine Hills,  
 23 Montana State Prison. Is that just a general  
 24 description?  
 25 **A.** That's a good synopsis.

18



1 **Q.** And I think most of the records that  
 2 you've brought today kind of fall within those  
 3 categories?  
 4 **A. Yes.**  
 5 **Q.** I don't want you to go back through, but  
 6 are the testing and test results reflected in the  
 7 documents that you brought today?  
 8 **A. Yes.**  
 9 **Q.** It looks like there were -- Were there  
 10 five tests administered on October 24, 2018?  
 11 **A. (Examines document) If you count the**  
 12 **clinical interview with mental status examination**  
 13 **as a test, it would be six. The one that is not**  
 14 **listed here for some reason, which I documented**  
 15 **here, is the M-FAST, and I'm not sure what my**  
 16 **oversight on that was.**  
 17 But the M-FAST is a test of feigning of  
 18 symptomology, to see if somebody is feigning  
 19 symptomology. It's actually documented and  
 20 discussed in my report. So there were five tests  
 21 plus the clinical interview with mental status  
 22 examination.  
 23 **Q.** Going back to Page 1 of Exhibit 29,  
 24 please. Under the Referral Question/Presenting  
 25 Problem topic, it says, "Mr. Briggs was referred  
 19

1 for a psychological evaluation by his attorney Dan  
 2 Biddulph." Had you ever worked with Mr. Biddulph  
 3 before this matter?  
 4 **A. You know, I don't recall since it's been**  
 5 **a couple years. It doesn't stand out to me.**  
 6 **Q.** It says, "Mr. Biddulph suspected his  
 7 client may have suffered psychological injury  
 8 during his incarceration while in Bozeman,  
 9 Montana, as well as Montana State Prison and in  
 10 Shelby, Montana."  
 11 So that sentence, I take it, that was  
 12 kind of what Mr. Biddulph asked you to look at?  
 13 **A. Again, yes, it was a personal injury**  
 14 **report, and so it was the identification of the**  
 15 **events that may have had a negative impact on his**  
 16 **client's psychological well-being.**  
 17 **Q.** Of course to do that, you had to run  
 18 your tests, meet Mr. Briggs, and review all  
 19 relevant documentation?  
 20 **A. Yes.**  
 21 **Q.** As well as talk to the three individuals  
 22 that we talked previously about?  
 23 **A. Yes.**  
 24 **Q.** And it says, "The purpose of this  
 25 evaluation is to determine psychological damages  
 20

1 Mr. Briggs may have experienced in relation to  
 2 events which occurred throughout his stay in  
 3 correctional facilities." Can you tell me what  
 4 you meant by correctional facilities, identify  
 5 those facilities?  
 6 **A. Well, they're identified above:**  
 7 Gallatin County correctional facility, Montana  
 8 State Prison, Crossroads Correctional facility in  
 9 Shelby, Montana.  
 10 **Q.** How about Pine Hills?  
 11 **A. I absolutely considered Pine Hills and**  
 12 **discussed the events that occurred there in his**  
 13 **behavior and diagnostics. I think that the claim**  
 14 **from the client focused on current day situations**  
 15 **and not past, so --**  
 16 **Q.** Cascade County's correctional facility,  
 17 I think you have records on those.  
 18 **A. Sure. That did not come to my attention**  
 19 **at the beginning of the evaluation that that was**  
 20 **of concern, so --**  
 21 **Q.** And in evaluating his current status, is  
 22 that what you were asked to do, his current  
 23 status, and related to his previous treatment that  
 24 he received in correctional facilities?  
 25 **A. No. What I'm asked to do in a personal**  
 21

1 **injury situation is to compare and contrast his**  
 2 **functioning prior to whatever events are alleged**  
 3 **to have impacted the individual, and contrast that**  
 4 **with how they're psychologically functioning after**  
 5 **those events or during that period of time up**  
 6 **until the current day.**  
 7 So when we look at it, it's how were  
 8 they functioning before, how did they function  
 9 after, how does it persist to affect that  
 10 individual today.  
 11 **Q.** And I think you listed the correctional  
 12 facilities as being Bozeman, MSP, and Shelby?  
 13 **A. Yes.**  
 14 **Q.** Those were the three that you kind of  
 15 focused on?  
 16 **A. Those are the three, yes.**  
 17 **Q.** Of course before he -- Can you tell me  
 18 what you recall --  
 19 (Off the record briefly)  
 20 **Q. (BY MR. CALVIN STACEY) Bozeman, MSP,**  
 21 **and Shelby are what you kind of focused on in your**  
 22 **report. Before that, though, the records show**  
 23 **that Mr. Briggs had been to a couple other**  
 24 **correctional facilities?**  
 25 **A. Correct.**  
 22



1 **Q.** I think he started out with Cascade  
 2 County?  
 3 **A.** Well, Pine Hills I would say would be  
 4 his first, right?  
 5 **Q.** I got a little lost yesterday. We took  
 6 his deposition. I think he was at Cascade County  
 7 as a juvenile, and then he ended up at Pine Hills,  
 8 and after Pine Hills he maybe went to MSP.  
 9 **A.** Yes.  
 10 **Q.** Does that sound about right?  
 11 **A.** That sounds correct, yes.  
 12 **Q.** And then it gets a little fuzzy. I  
 13 haven't outlined it. He may have made parole, and  
 14 then he got revoked, and then he was in jails in  
 15 Oregon.  
 16 **A.** It took me a couple of times through his  
 17 records to --  
 18 **Q.** -- figure it out?  
 19 **A.** -- to figure it out, too. It's a little  
 20 cloudy.  
 21 **Q.** Would all of those previous incidents  
 22 before Bozeman, MSP, and Shelby have impacted his  
 23 emotional condition, or eventually what you're  
 24 reaching your conclusions on in this case?  
 25 **A.** Sure. Again, though, what I focus on is

23

1 **I absolutely look at what did they talk about.**  
 2 Like let's take Pine Hills, for  
 3 instance. They talked about him being very  
 4 obstinate, having difficulties there, actually  
 5 being diagnosed with a post traumatic stress  
 6 disorder, making claims of sexual and physical  
 7 abuse, all these different items that need to be  
 8 considered. And then what we're seeing there  
 9 today, was it really the new events that caused  
 10 any problems, or were they already existing? Had  
 11 anything subsided, and then came back?  
 12 So not just the correctional facilities,  
 13 but the whole life events pattern prior to these  
 14 events have to be taken in consideration to kind  
 15 of create a baseline for Mr. Briggs, about where  
 16 he was.  
 17 It's not necessarily, well, he went to  
 18 this jail, and this jail, and this jail, it's  
 19 about what did his life look like up to that  
 20 point, and how did that psychologically impact  
 21 him. And then from that point forward, are we  
 22 seeing something new, are we seeing something  
 23 different, has it gotten worse because of that,  
 24 those kind of things; and specifically what made  
 25 it worse, if anything.

24

1 I'm not just trying to establish does he  
 2 have a mental health issue. It's has something  
 3 created that since that period, or did it already  
 4 exist?  
 5 **Q.** Page 3 of your report. Under Plan of  
 6 Report, you kind of outline you'll begin by  
 7 reviewing Mr. Briggs' history prior to the time of  
 8 his incarceration and subsequent experiences  
 9 leading up to the present day. That's what we  
 10 have just been talking about, isn't it?  
 11 **A.** Yes.  
 12 **Q.** His history prior to the time of his  
 13 incarceration, we're talking about incarceration  
 14 in Bozeman at the county detention center, his  
 15 incarceration after that to Montana State Prison,  
 16 and where he is currently up in Shelby?  
 17 **A.** Yes.  
 18 **Q.** And you say the second part of the  
 19 report deals with events that occurred throughout  
 20 his incarceration and the immediate aftermath  
 21 through his perception and recorded data. What  
 22 are we talking about there in the second part of  
 23 your report?  
 24 **A.** So what we're talking about that is when  
 25 he is getting to Bozeman, when he's going to MSP,

25

1 Shelby, those kind of things, like what now is he  
 2 saying had a negative effect on him, what is it  
 3 that we're seeing as far as data consistent with  
 4 collateral reports, what were other mental health  
 5 professionals seeing at those times through those  
 6 periods of time. Did it have a negative impact?  
 7 If so, to what degree? And what did I ultimately  
 8 conclude from that?  
 9 **Q.** When you met with him on October 24,  
 10 2018, and you had the information as of that date,  
 11 from that point forward through the present date,  
 12 have you received new information that you  
 13 reviewed and considered, or can we just work off  
 14 of this report as your opinions?  
 15 **A.** I would say the only caveat to that was  
 16 I jumbled something in his legal history, and I  
 17 had to make a correction to it. And he had caught  
 18 that and said, "Hey, did you see this?" And so I  
 19 went back, and I was like, "Oh, yeah, that's  
 20 wrong." So it was a correction, not any new  
 21 information, nor did it change my opinion.  
 22 **Q.** Let's work backwards. From October 24,  
 23 2018 when you met him, and you had the  
 24 information, he'd been in Shelby at the  
 25 correctional facility for some period of time?

26



1 **A. Yes.**  
 2 **Q.** We can outline that. I'm not sure if  
 3 it's real easy to figure out how long he'd been  
 4 there.  
 5 **A. Sure.**  
 6 **Q.** But during that time at that facility,  
 7 what events -- I'm not sure how to ask that --  
 8 Through self-reporting, or through documentation,  
 9 or through whatever means, what events, if any,  
 10 did you focus on that would be relevant to your  
 11 opinions in this case just at the Shelby stay?  
 12 **A. Well, first and foremost, I was curious**  
 13 **as to whether he had been in any counseling there,**  
 14 **or was on any medication, what his daily routine**  
 15 **looked like; what, if any, events had occurred**  
 16 **that may have had a negative impact on him.**  
 17 I also wanted to see if there was some  
 18 residual effect in the sense that had he been  
 19 developing a way of interacting with people based  
 20 on prior incarceration experiences, was there some  
 21 kind of post traumatic reaction that he was  
 22 having.  
 23 When we look at Shelby in particular, as  
 24 of the day I went up there, he was not in any  
 25 counseling, he was not on any medication. He was

27

1 very actively involved in spiritual religious  
 2 groups.  
 3 He did report increased anxiety and  
 4 paranoia, but it was due to fear of being hurt by  
 5 other inmates, and not protected by the guards for  
 6 it. So he had developed a nickname of Escapo  
 7 Rapo, and this was something where others used it  
 8 as a way of bullying him, and he felt like the  
 9 guards didn't care about that.  
 10 So his anxiety and paranoia around those  
 11 issues were heightened, but his life in general  
 12 was pretty functional. He was the leader of some  
 13 -- I forget the spiritual group name -- but he was  
 14 very actively involved in different activities  
 15 there, functioning in a pretty good manner.  
 16 So it didn't come to me that anything  
 17 psychologically was pushing on him beyond that  
 18 general uneasiness, and anxiety, and depression  
 19 that he was facing around, "I might get beat up."  
 20 **Q.** So he wasn't getting counseling. I  
 21 noticed that in your report. I assume Crossroads  
 22 has counseling capabilities?  
 23 **A. Minimally. I mean I'm being fair. They**  
 24 **have a hard time employing counselors up there,**  
 25 **and psychiatry is really hard. I think they do**

28

1 tele-med stuff. So to say that it's not readily  
 2 available, but I think you can get it if you  
 3 really, really need it. But to be fair, I don't  
 4 think it's great opportunities up there.  
 5 **Q.** And medicine, he wasn't on any  
 6 prescriptive medicines?  
 7 **A. None that I noted, no.**  
 8 **Q.** Before getting there, he was at Montana  
 9 State Prison after being sentenced out of Gallatin  
 10 County, and he was there for some period of time.  
 11 What events, if any, were of any significance at  
 12 MSP?  
 13 **A. Let me quickly look, just because I'm**  
 14 **getting some jumbled in my head. But really from**  
 15 **what I remember -- that's Gallatin. I'm glad I**  
 16 **looked. Really there was -- he flew a lot of**  
 17 **kites, and wanted to be assessed, and there wasn't**  
 18 **a lot of emphasis on people corroborating that he**  
 19 **had a mental illness. I think there was a lot of**  
 20 **belief that there was inflated feigning of**  
 21 **symptomology, drug seeking behavior, those kind of**  
 22 **things.**  
 23 **Q.** At MSP?  
 24 **A. Yes.**  
 25 **Q.** Looking at your report -- I'm jumping

29

1 around. I apologize. Maybe I shouldn't have  
 2 jumped around so early. But on Page 3, just a  
 3 couple quick questions. You took a developmental  
 4 history that I assume came primarily, if not  
 5 solely, from Mr. Briggs?  
 6 **A. Yes. Anything you see there is from my**  
 7 **personal history that I took in an oral fashion.**  
 8 **Q.** He told you that he'd been raised by his  
 9 mother until the age of eight, followed by his  
 10 grandmother, and briefly his father?  
 11 **A. That's what he said.**  
 12 **Q.** And his mother had physically, verbally,  
 13 and emotionally abused him?  
 14 **A. Yes.**  
 15 **Q.** And emotional abuse by his grandmother?  
 16 **A. Yes.**  
 17 **Q.** And then from an educational work  
 18 history, he told you that he had an associates  
 19 degree from MSU Billings?  
 20 **A. That's what he said.**  
 21 **Q.** With a 3.79 GPA?  
 22 **A. That's what he said.**  
 23 **Q.** Did you ever see any transcripts from  
 24 MSU-B?  
 25 **A. I did not.**

30



1 **Q.** And did he talk to you about his goals  
2 in education, what he was attempting to obtain  
3 beyond the associates degree that's referred here?

4 **A.** He did not discuss that, no.

5 **Q.** Do you recall him mentioning he wanted  
6 to go to MSU in Bozeman and major in chemical  
7 engineering?

8 **A.** I don't recall that.

9 **Q.** He had some work history, and again, I  
10 don't have a timeline, but did you get the  
11 impression that from age 16 on, he spent most of  
12 his time in correctional facilities, and not a  
13 great deal of time out in the real world working?

14 **A.** I would say that would be an accurate  
15 statement.

16 **Q.** Because he said, he reported to you  
17 doing some oil and gas work in 2011; he said that  
18 lasted about two or three months. He worked at  
19 Hastings as a clerk.

20 So from a work history -- and again, I  
21 don't have a timeline, but it seemed to me that  
22 most of his pre-adult from age 16 and adult life,  
23 he's been involved in criminal matters that have  
24 required him to be incarcerated?

25 **A.** Correct.

31

1 **Q.** Never been married, doesn't have any  
2 children, is what he told you. Did he tell you  
3 that he had any goals once he gets out of prison  
4 in regard to what he wanted to do in the future?

5 **A.** I don't know if he's seeing that far in  
6 the future right now. That was not a major focus.

7 **Q.** Is that because he's not eligible for  
8 parole for some period of time?

9 **A.** I would be speculating if I answered  
10 that.

11 **Q.** Under Substance Abuse History, he  
12 identified certain drugs that he had used when he  
13 was not in jail.

14 **A.** Uh-huh.

15 **Q.** And mental health history, he discussed  
16 when his parents apparently were going through a  
17 divorce, or there was a custody dispute, he first  
18 saw a shrink is what he described?

19 **A.** Yes.

20 **Q.** And this incident at Pine Hills that put  
21 him in Pine Hills at age 16, it was a sexual  
22 intercourse without consent issue?

23 **A.** That's what I understand, yes.

24 **Q.** Did you know the facts of what Mr.  
25 Briggs was alleged to have done that caused him to

32

1 be incarcerated?

2 **A.** I reviewed the psychosexual evaluation,  
3 but I don't recall it right now off the top of my  
4 head.

5 **Q.** Was that from Mike Sullivan, by chance?

6 **A.** I think it was either Mike Sullivan or  
7 Bob Page.

8 **Q.** We had an Exhibit 26, a discharge report  
9 from Pine Hills. And this wasn't the one I was  
10 referring to. I'm curious. Did you discuss any  
11 of the crimes that he had committed?

12 **A.** No.

13 **Q.** Never? And could you tell whether or  
14 not he had accepted responsibility for the crimes  
15 that he had committed in the past when you met  
16 with him?

17 **A.** This was not the focus of my evaluation  
18 currently. I wasn't focused on recidivism or any  
19 of those kind of referral questions. So I didn't  
20 spend a lot of time on his accountability.

21 **Q.** So you don't have any opinions as to  
22 whether or not if he gets out, whether he'll be a  
23 repeat offender?

24 **A.** I have no opinion for you because I did  
25 not assess that paradigm.

33

1 **Q.** In evaluating Mr. Briggs as you've done,  
2 is it relevant as to whether or not he has changed  
3 his behavior which caused him to get in trouble or  
4 not? Does that have any relevancy?

5 **A.** No. This is not a parole evaluation.

6 **Q.** You were aware of his attempts to commit  
7 suicide?

8 **A.** I'm aware of his suicidal presentations,  
9 yes.

10 **Q.** Was that relevant in any way in reaching  
11 your opinions in this case on the issues that you  
12 were asked to look at?

13 **A.** So it was relevant in the sense that he  
14 had demonstrated unstable maladaptive ways of  
15 coping in the past, which are relevant in the  
16 sense of the severity and intensity that he was  
17 going through during those time periods. I also  
18 took into consideration, however, where people saw  
19 those as manipulative acts as well, and cries for  
20 attention or substances.

21 **Q.** When you evaluated him, did it appear to  
22 you from a professional standpoint that he is a  
23 suicide risk at the present time?

24 **A.** He was not when I evaluated him, no.

25 **Q.** So on Page 4, "Events that occurred in

34



1 the course of his experience in prison, and the  
2 immediate aftermath," so you do start with Pine  
3 Hills in your discussion.

4 **A. Yes.**

5 **Q.** In Pine Hills he claimed verbal and  
6 physical abuse from the guards?

7 **A. Yes.**

8 **Q.** Did that seem to be a theme throughout  
9 his stay in the various correctional facilities,  
10 problems and issues with guards?

11 **A. He had problems and issues with guards  
12 at every facility he was at, yes.**

13 **Q.** It goes on here that, "After the claimed  
14 verbal and physical abuse from guards at Pine  
15 Hills," and did he describe to you what that  
16 verbal or physical abuse was?

17 **A. It wasn't very detailed, but it was just  
18 more of a, "I was beaten and yelled at constantly  
19 by the guards, and grew to dislike the guards."**

20 **Q.** Would that incident that happened when  
21 he was 16, 17 years old, does that have any impact  
22 on how you saw him in October of 2018 and  
23 evaluated? Is that something that is important in  
24 your evaluation?

25 **A. It is. It creates a baseline that says**

35

1 **his time in Bozeman, MSP, Shelby was not his first  
2 interaction with guards, and people develop ways  
3 of interacting or believing how to interact with  
4 people from prior experiences. And so his  
5 interactions or perceived negative interactions  
6 with guards at Pine Hills would have had an  
7 effect, yes.**

8 **Q.** Then we go on, and it says, "After being  
9 re-violated, sent to MSP, documentation suggests  
10 he claims sexual assault by a guard." So again,  
11 this seems to be consistent of a guard being  
12 accused of doing something to him?

13 **A. Yes.**

14 **Q.** Do you know the details of the sexual  
15 assault allegation?

16 **A. Just that he claims that he was sexually  
17 assaulted by the guard.**

18 **Q.** You go on to say, "He also reported  
19 multiple instances of physical aggression and  
20 emotional abuse from the staff and from inmates;"  
21 I assume that's at Montana State Prison?

22 **A. Yes.**

23 **Q.** So at this point in time, and this is  
24 before he gets to Bozeman, to MSP, and Shelby,  
25 this is yet another time that he's in the

36

1 correctional facility, and he is having multiple  
2 instances of physical aggression and emotional  
3 abuse coming from staff, which I assume could  
4 include guards?

5 **A. Yes.**

6 **Q.** And as well as other inmates?

7 **A. Yes.**

8 **Q.** In your work in dealing with the  
9 criminal system, is it unusual for inmates to  
10 treat other inmates badly from time to time?

11 **A. No.**

12 **Q.** It would seem to me that that happens  
13 frequently.

14 **A. Yes.**

15 **Q.** I don't know if it's called bullying, or  
16 harassing, or -- I mean can it escalate to  
17 physical assaults as well?

18 **A. It often does.**

19 **Q.** Then it says, "Despite this, no  
20 diagnosis or referrals were made when he was seen  
21 by mental health at the Montana State Prison." So  
22 what is the significance of that statement?

23 **A. The significance of that statement is  
24 that the professionals at the Montana State Prison  
25 at least at that time didn't see that he had**

37

1 **mental health issues. They felt that he was  
2 having a hard time adjusting, and that his cries  
3 for help were more manipulative than not, so --**

4 **Q.** He eventually was discharged. He was 25  
5 years of age. He reported starting school at MSU.  
6 And that is about the time he got charged with  
7 attempted sexual intercourse without consent,  
8 aggravated assault, assault on a peace officer,  
9 and possession of dangerous drugs, escape, and  
10 failure to, what register, as a sex offender or as  
11 a -- is that what it is?

12 **A. Sex offender, yes.**

13 **Q.** Was it your understanding those were the  
14 charges that led to him being held at the Gallatin  
15 County Detention Center?

16 **A. Yes.**

17 **Q.** Have you ever been to the Gallatin  
18 County Detention Center?

19 **A. Multiple times.**

20 **Q.** And so you know how it's laid out?

21 **A. I do.**

22 **Q.** Do you know the jail administrator or  
23 any of those?

24 **A. Yes.**

25 **Q.** Have you --

38



1 the whole gamut, but specifically he's saying that  
2 he never sexually assaulted.

3 Q. And he says that despite going to trial  
4 and a jury convicting him of these crimes?

5 A. Yes.

6 Q. So just stopping at that point, he's  
7 still -- I'm not going to say in denial. He has a  
8 right to deny doing the crimes -- but he's not  
9 accepting that he was convicted of these crimes;  
10 and doing time for these crimes; he challenges  
11 that he shouldn't even be in prison for these  
12 crimes, or least the sexual assault crime?

13 A. So just so that I can clarify, he's not  
14 delusional thinking he wasn't convicted. He knows  
15 he was convicted. He doesn't believe they got it  
16 right.

17 Q. Then as you say in this sentence, "And  
18 being placed in solitary confinement when it was  
19 not his fault." It seems to kind of be consistent  
20 with the theme that, "I shouldn't be in prison  
21 because I didn't really commit these crimes, and  
22 they got it wrong, and I shouldn't have been in  
23 solitary confinement because it wasn't my fault to  
24 be in solitary confinement;" is that --

25 A. Slightly. His perception on the first

59

1 is that he was convicted, but unjustly so.

2 On the solitary confinement, it was in  
3 his perception, "I was placed in solitary  
4 confinement," for a lack of a better understanding  
5 because he was the victim of an assault, and the  
6 best way to handle that was to remove him, as  
7 opposed to take care of everyone else that wanted  
8 to hurt him. So he feels it was unjust that he  
9 was placed in solitary confinement when he was a  
10 victim of a crime.

11 Q. He's upset and traumatized because he  
12 did nothing wrong, and was placed in segregation  
13 versus actually being in segregation?

14 A. Yes. It was the unjustness of the  
15 actions, and the perception that Corrections  
16 wronged him in those settings for placing him in  
17 there.

18 Q. So you go on in your report on Page 7 --  
19 and let me just take a look here. I note under  
20 "Clinician Administered PTSD scale," the last  
21 paragraph underneath that he talks about blaming  
22 others for what has happened to him, and feels  
23 he's been unfairly prosecuted; it's kind of what  
24 we were just talking about a little bit?

25 A. It's exactly what we were just talking

60

1 about.

2 Q. "Feels the guards do not stick up for  
3 him," and that's I assume here, or at Shelby at  
4 the current location?

5 A. In general.

6 Q. "Summary of Data." You say, "The  
7 current evaluation has been conducted to explore  
8 the negative psychological impact Mr. Briggs'  
9 exposure to solitary confinement and/or prison  
10 life in general has had over time. In an effort  
11 to do so, one must consider Mr. Briggs'  
12 pre-existing conditions --" which we've been  
13 talking to some extent?

14 A. Yes.

15 Q. "-- and how they may have been  
16 exacerbated and/or originated from the prison  
17 environment."

18 Then you go on and talk like we have,  
19 "He was physically, emotionally abused early in  
20 life, went to Pine Hills." At Pine Hills he had  
21 some problems there, evaluated. "After Pine Hills  
22 he had multiple traumas, including being raped,  
23 assaulted, experienced traumatic events, such as  
24 being stabbed by his girlfriend, being involved in  
25 car accidents."

61

1 "He continued to have legal  
2 difficulties, ultimately made his way to MSP,  
3 where he made a claim he was sexually abused by a  
4 guard. He reported physical abuse from other  
5 inmates."

6 He was released. He again committed a  
7 sexual act. "Mr. Briggs to this day denies he  
8 engaged in his reported sexual behavior, feels  
9 wrongly convicted, and noted that his conviction  
10 creates great distress and paranoia."

11 So I'll stop there. That again we've  
12 talked about. It appears to me that he believes  
13 that he has been mistreated, I guess by the legal  
14 system, and unjustly and wrongfully convicted of a  
15 crime?

16 A. Yes.

17 Q. He is innocent of the crime and  
18 shouldn't be in prison?

19 A. That is his belief, yes.

20 Q. The next sentence, "He escaped from  
21 Gallatin County correctional facility." He was  
22 seen by mental health professionals. You have  
23 some of those records in your file?

24 A. Yes.

25 Q. "They did not diagnose him with post

62



1 traumatic stress disorder, rather an adjustment  
2 disorder to his life circumstances." Then it  
3 goes, "During my conversation with Mr. Briggs, the  
4 experience of isolation did not seem to bother him  
5 as much as the injustice he felt."

6 We've talked about that. That kind of  
7 sums up how he perceives it. He's more upset with  
8 the fact that he was placed in solitary  
9 confinement wrongfully because he was the victim  
10 of an assault or assaults, rather than just  
11 sitting in the cell and being traumatized by  
12 sitting in the cell?

13 **A. That's what I gathered, yes.**

14 **Q.** "He reported he was placed in isolation  
15 as he was seen as a problem for the facility as he  
16 was being assaulted." You don't have any opinion  
17 on whether or not that is true or not true, that  
18 statement?

19 **A. I have no idea why the facility decided**  
20 **to place him in isolation.**

21 **Q.** Then, quote, "These injustices seem to  
22 bother him significantly and created greater  
23 paranoia and anxiety for him." So again, that's  
24 what we've just been talking about?

25 **A. Yes.**

63

1 **Q.** Not on medication, not received  
2 counseling at Crossroads. Then you say, "He does  
3 not demonstrate symptoms consistent with post  
4 traumatic stress, anxiety, or depression." Is  
5 that based upon your clinical look at him, or is  
6 that the exam, talking to him, plus the test  
7 results?

8 **A. All of the above.**

9 **Q.** So from a testing standpoint, and as a  
10 clinician, and taking a history, and talking to  
11 other people like we've talked about, he does not  
12 show symptoms of post traumatic stress disorder?

13 **A. He does not.**

14 **Q.** He does not show symptoms of anxiety?

15 **A. Let me back up. He shows anxiety**  
16 **symptoms, as I noted. He shows feelings of**  
17 **persecution and paranoia due to his circumstances**  
18 **that he's in.**

19 So the symptoms are there, but the I  
20 would not diagnose him with a diagnosis of post  
21 traumatic stress disorder -- he doesn't meet the  
22 full gamut by any stretch of the imagination -- or  
23 a diagnosis of anxiety or diagnosis of depression  
24 which would require treatment, both medically  
25 and/or through counseling.

64

1 I believe that because one exhibits some  
2 depression, or anxiety, or small symptoms like  
3 that from time to time due to life circumstances,  
4 that doesn't mean it's a diagnosis. That means  
5 it's a life event.

6 **Q.** So the record is a little clearer on  
7 that. You would try to diagnose people I assume  
8 when you --

9 **A. That's one of my jobs, yes.**

10 **Q.** In this case, you did not reach a  
11 diagnosis?

12 **A. I did not reach a diagnosis, no.**

13 **Q.** And the diagnosis is something you just  
14 don't pull out of the air, it's based upon all of  
15 the testing, and all of the information, and then  
16 requirements to meet that diagnosis?

17 **A. Yes.**

18 **Q.** And he did not reach that level of  
19 making that type of diagnosis for those  
20 conditions?

21 **A. Correct. He didn't have a reliable**  
22 **pattern of symptoms consistent with a DSM5 or an**  
23 **ICD diagnostic.**

24 **Q.** Again, in your report you say people  
25 that knew him prior to Bozeman, their impression

65

1 is he's only improved in personality, as well as  
2 emotional and behavioral presentation, describe a  
3 more stable and well rounded individual?

4 **A. Yes.**

5 **Q.** That's what everybody -- the consensus  
6 is?

7 **A. That is.**

8 **Q.** Does Mr. Briggs believe that? Could you  
9 tell if he believes that or not?

10 **A. He was pretty positive about himself and**  
11 **the decisions he's been making. I don't know if I**  
12 **ever directly asked him that question of, "Do you**  
13 **feel better than you did when you were -- before**  
14 **you went into the correctional systems again?"**

15 I think I just gathered data to look at  
16 how he reported each period of his life, and each  
17 event, and so I didn't get a general synopsis, I  
18 guess.

19 **Q.** The bottom of Page 8 you say, "While his  
20 time in prison has not created new mental health  
21 issues," and I take that meaning Bozeman, MSP, and  
22 Shelby --

23 **A. Yes.**

24 **Q.** -- in the term "prison." So while his  
25 time at Gallatin County correctional facility,

66



1 Montana State Prison in Deer Lodge, and the  
 2 Crossroads Correctional facility in Shelby "-- has  
 3 not created new mental health issues, nor have  
 4 mental health issues persisted, his experiences  
 5 have exacerbated issues of anxiety, paranoia, and  
 6 distrust that began in childhood due to his own  
 7 family instability and his personal abuse."  
 8 That's the last sentence of your report.  
 9 Does that kind of sum up your opinion?

10 **A. Yes.**  
 11 **Q.** So as I read that last sentence, and  
 12 breaking it down -- just my one chance to ask you  
 13 questions before trial -- your opinion, based upon  
 14 everything that you reviewed while he was at  
 15 Bozeman, Deer Lodge, and Shelby, did not, number  
 16 one, create any new mental health issues?

17 **A. Correct.**  
 18 **Q.** When you say, "nor have mental health  
 19 issues persisted," does that mean -- explain to me  
 20 what that means.

21 **A. It means that as he had his new  
 22 experiences, nothing arose to the level of a  
 23 diagnosis or stayed on.**  
 24 When we have life events in general, we  
 25 look at them as life events, whether it's a meteor

67

1 striking the earth, and how do we perceive that,  
 2 how do we deal with it, of course we're going be  
 3 shaken initially, but do they stick around, and  
 4 when we start getting into acute stress disorder,  
 5 and later post traumatic stress, or long term  
 6 depression, or long term anxiety.  
 7 And I didn't see any residual effects  
 8 that persisted beyond just his experiences of  
 9 different matters. So while it makes sense that  
 10 he would be shaken if somebody wants to beat him  
 11 up, or anxious or paranoid about that, it hasn't  
 12 persisted into long term problematic effects  
 13 beyond what he already was experiencing before  
 14 incarceration.

15 **Q.** And finally the last of it, I think you  
 16 just touched upon it, "His experiences have  
 17 exacerbated issues of anxiety, paranoia, and  
 18 distrust," all of which began many years earlier  
 19 in his childhood, family instability, and all of  
 20 the things that led up to getting to Gallatin  
 21 County, to MSP, and to Shelby?

22 **A. They were all there, yes.**  
 23 **Q.** And those issues of anxiety, paranoia,  
 24 and distrust, again, don't reach a level of an  
 25 official psychological diagnosis?

68

1 **A. Currently to date, no.**  
 2 MR. CALVIN STACEY: Let's just take a  
 3 minute break.  
 4 (Recess taken)  
 5 MR. CALVIN STACEY: Let's go back on.  
 6 **Q.** (BY MR. CALVIN STACEY) I'm just about  
 7 done. I've just got some housekeeping matters. I  
 8 had mentioned whether or not you could recall any  
 9 of the Gallatin County psychologists or counselors  
 10 that may have seen Mr. Briggs when he was there.  
 11 I have some names here, and I just was curious if  
 12 you knew any of these people.

13 **A. Okay.**  
 14 **Q.** John Karath, K-A-R-A-T-H.  
 15 **A. I don't know him personally. Like I've  
 16 not met this person.**  
 17 **Q.** David Powell.  
 18 **A. I've not met that person.**  
 19 **Q.** Adrian Utsch, U-T-S-C-H.  
 20 **A. Not somebody I recall.**  
 21 **Q.** James Murphey, M-U-R-P-H-E-Y, a licensed  
 22 clinical psychologist.  
 23 **A. I know of Dr. Murphey. I've read some  
 24 of his work. I've not met Dr. Murphey.**  
 25 **Q.** Emily Tutvedt, T-U-T-V-E-D-T.

69

1 **A. I do not know that individual.**  
 2 MR. CALVIN STACEY: I think that's it.  
 3 That's all I have. Thanks for your time this  
 4 morning.  
 5 MR. BIDDULPH: I just have some quick  
 6 follow up questions for you, Dr. Smelko.  
 7 THE WITNESS: Sure.  
 8  
 9 EXAMINATION  
 10 BY MR. BIDDULPH:  
 11 **Q.** I'm just going to jump to Page 8 I  
 12 believe of the evaluation, your report.  
 13 **A. Okay.**  
 14 **Q.** The last, it looks like mid page talking  
 15 about, "Experience of isolation did not seem to  
 16 bother him as much as the injustice he felt." The  
 17 next sentence, "He reported he was placed in  
 18 isolation as he was seen as a problem for the  
 19 facility and he was being assaulted. These  
 20 injustices seem to bother him significantly, and  
 21 create greater paranoia and anxiety for him."  
 22 Then also I just want to kind of preface  
 23 my questioning with the last paragraph under  
 24 "Implications and Recommendations" for Mr. Briggs  
 25 also on Page 8.

70